

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA,                  )  
    )  
Plaintiff,                                    )  
    )  
v.    )         Case No. 22-00246-CR-W-HFS  
LEE M. MILLER                                )  
    )  
    )  
Defendant.                                    )

**ORDER**

Presently pending before the court is defense counsel's motion for an order of competency (Doc. 22); the motion was granted by Magistrate Judge Jill A. Morris and defendant was directed to undergo competency evaluation. (Doc. 23).

After a series of various testing techniques and observations, as well as review of relevant documents, Kristen M. McDaniel, Psy.D. and Larissa Berls, M.A. diagnosed defendant with schizophrenia, multiple episodes, currently in acute episode. (Doc. 29, p. 13). The examiners opined that defendant is presently not competent to proceed as his competency related skills are impaired due to his mental illness. (Doc. 29, p. 14). However, the examiners noted that defendant's mental state could improve within a period of 2 to 3 months, as psychotic symptoms tend to respond well to treatment with antipsychotic medication and recommended that defendant be committed for treatment under the provisions

of 18 U.S.C. § 4241(d) to receive inpatient competency restoration services for later reevaluation within the timeframe statutorily outlined. (Doc. 29, p. 15).

A competency hearing was held on July 18, 2023, and the parties stipulated that the examiners would testify consistent with their report. In a Report and Recommendation dated July 21, 2023, and after conducting an independent review of the record, Judge Morris determined that defendant is incompetent to understand the nature and consequences of the proceedings against him and assist properly in his defense. (Doc. 36). Judge Morris recommended that the undersigned find that defendant is incompetent to understand the nature and consequences of the court proceedings against him and assist counsel in his defense. (Doc. 36, p.2).

To-date, no objections to the Report and Recommendation have been filed, and the time in which to do so has expired. Thus, the findings and conclusions in the Report and Recommendation (Doc. 36) are ADOPTED by the undersigned.

Further:

THE COURT HEREBY FINDS by a preponderance of the evidence that defendant is presently suffering from a mental disease or defect to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his own defense.

THE COURT HEREBY ORDERS that the defendant is committed to the custody of the Attorney General for hospitalization and treatment in a suitable facility pursuant to 18 U.S.C. § 4241(d), for such a reasonable period of time up to 120 days from the date of this order to determine whether there is a substantial likelihood that in the foreseeable future the defendant will attain the capacity to permit the trial to proceed.

THE COURT FURTHER ORDERS that if it is determined by the director of the facility where the defendant is hospitalized that the defendant has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense, the director shall promptly file a certificate to that effect with the clerk of this court.

THE COURT FURTHER ORDERS that upon the filing of such a certificate by the director, counsel for the parties shall immediately notify the court in writing by way of a written status report and shall arrange for a date for the parties to appear in court.

SO ORDERED.

/s/ Howard F. Sachs

HOWARD F. SACHS  
UNITED STATES DISTRICT JUDGE

Dated: August 17, 2023  
Kansas City, Missouri